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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/808,644

03/25/2004

Timothy J. Magnuson

MAGN-26,326

6117

25883 7590 05/30/2008  
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EXAMINER

RAJAN, KAI

ART UNIT

PAPER NUMBER

3736

NOTIFICATION DATE

DELIVERY MODE

05/30/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@dalpat.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/808,644	<b>Applicant(s)</b> MAGNUSON ET AL.	
	<b>Examiner</b> Kai Rajan	<b>Art Unit</b> 3736	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 28 is/are pending in the application.
- 4a) Of the above claim(s) 3, 9, and 16 - 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 - 8, & 10 - 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

Examiner acknowledges the response filed April 2, 2008, from which claims 1 – 15 are pending, and claims 3 and 9 are withdrawn from further consideration.

### *Election/Restrictions*

Claims 3, 9, and 16 – 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 2, 2008.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 4 – 8, and 10 – 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lange et al. U.S. Patent No. 6,751,499.**

1. A method for monitoring the wellness state of a given human body of a person, comprising the steps of:

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sensing measurable physiologic parameters of the physiologic metabolism of the given human body (Column 3 line 39 – column 4 line 55, figure 3);

determining perceived physiologic parameters of the physiologic metabolism of the given human body through interface with the human brain associated with the given human body, which perceived physiologic parameters are parameters relating to the physiologic metabolism of the given human body that can only be determined by interface of the human brain with the physiologic metabolism of the associated given human body (Column 3 line 39 – column 4 line 55 objective measurement);

wherein the sensed measured physiologic parameters and the determined perceived physiologic parameters comprise an input vector (Column 3 line 39 – column 4 line 55, figure 3); and

processing the input vector through a model of the given human body that is trained on a training data set comprised of historical measured physiologic parameters of the physiologic metabolism of the given human body that are sensed over time in conjunction with historical perceived physiologic parameters of the physiologic metabolism of the given human body, wherein the input vector comprises less than the set of historical measured physiologic parameters and the set of historical perceived physiologic parameters, the output of the model providing a prediction of wellness of the given human body (Column 3 line 39 – column 4 line 55, figure 3).

2. The method of Claim 1, wherein the ratio of measured physiologic parameters in the input vector to the historical measured physiologic parameters is substantially

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greater than the ratio of the perceived physiologic parameters in the input vector to the historical perceived physiologic parameters (Column 3 line 39 – column 4 line 55).

4. The method of Claim 1, wherein the interface to the human brain comprises a tactile interface (Column 3 line 39 – column 4 line 55, figure 11 item 68 keyboard).

5. The method of Claim 4, wherein the tactile interface comprises a written interface (Column 3 line 39 – column 4 line 55, figure 11 item 68 keyboard).

6. The method of Claim 1, and further comprising the step of measuring external parameters that affect the physiologic metabolism of the given human body and the input vector includes the measured external parameters and the training data set includes historical external parameters (Column 24 lines 1 – 67).

7. The method of Claim 6, wherein the external parameters include environmental parameters (Column 24 lines 1 – 67).

8. The method of Claim 6, wherein the environmental parameters include environmental parameters from the group of relative humidity, pollen count, mold count, ambient temperature, air quality and barometric pressure (Column 24 lines 1 – 67).

10. The method of Claim 1, wherein the model is a non-linear model (Column 15 line 43 – column 23 line 12).

11. The method of Claim 10, wherein the non-linear model comprises a neural network (Column 15 line 43 – column 23 line 12).

12. The method of Claim 1, wherein the measured physiologic parameters are selected from the group of blood pressure, body temperature, pulse, blood chemistry, pedometer count, and urine chemistry (Figure 3).

13. The method of Claim 1, wherein the historical perceived physiologic parameters are collected by the steps of recording perceived parameters of the wellness of the given human body by the associated brain and recording such perceptions (Column 3 line 39 – column 4 line 55).

14. The method of Claim 13, wherein the step of recording comprises responding to predetermined queries at predetermined times over a set time span (Column 3 line 39 – column 4 line 55).

15. The method of Claim 1, wherein the model comprises a representation of the physiological metabolism of the given human body combined with the inherent learned behavior of the associated brain when making perceptions of the physiological metabolism of the given human body (Column 3 line 39 – column 4 line 55, figures 15 – 21).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077.

The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/  
Examiner, Art Unit 3736

/Michael C. Astorino/  
Primary Examiner, Art Unit 3736

May 20, 2008